

HOUSE BILL 2407

By Curtiss

AN ACT to amend Tennessee Code Annotated, Title 46, Chapter 3, relative to management and regulation of cemeteries.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 46-3-103(a)(1), is amended by deleting the words "The owner" and by substituting instead the language "Except as otherwise limited by the provisions of this section, the owner".

SECTION 2. Tennessee Code Annotated, Section 46-3-103(b)(2), is amended by deleting the subdivision in its entirety, and by substituting instead the following language:

(2) In connection with the sale or installation of merchandise, the owner of a cemetery shall not:

(A) Impose any condition upon the installation of merchandise obtained from a third party, other than to require installation by a registrant under this chapter or as may otherwise be permitted by the rules and regulations promulgated by the commissioner;

(B) Charge a fee for the installation of merchandise purchased or obtained from and to be installed by a person or firm other than the owner of the cemetery or its agents, provided that the owner of the cemetery may charge a

fee not to exceed fifty dollars (\$50.00) to reimburse the owner of the cemetery for its actual costs incurred in assisting in the siting of a monument on the lot on which it is to be installed, supervision and inspection of the installation to ensure compliance with the rules and regulations of the cemetery, and any administrative functions associated with the installation; provided, further, that any such fee is properly disclosed and published as required by this chapter and charged regardless of whether the installer is or is not the owner of the cemetery or affiliated therewith;

(C) Refuse to mark the place on the grave where the merchandise is to be installed and inspect the installation when completed to ensure compliance with cemetery rules and regulations;

(D) Require any person or firm that installs, places or sets merchandise to pay any fee other than any fee charged pursuant to sub-item (B) of this subdivision;

(E) Tie the purchase of any grave space or burial right to the purchase of merchandise from or through the seller or any other designated person or corporation;

(F) Refuse to provide care or maintenance for any portion of a grave site on which a monument has been placed, provided that installation has been in accordance with lawful rules and regulations of the cemetery;

(G) Attempt to waive liability with respect to damage caused by cemetery employees or agents to merchandise after installation, where merchandise or installation service is not purchased from the cemetery providing grave space or from or through any other person or corporation designated by the person authorized to sell grave space or the cemetery providing grave space; provided, however, that no owner of a cemetery may be held liable for the improper

installation of merchandise where merchandise is not installed by the cemetery company or its agents;

(H) After promulgation of rules and regulations relating to this act by the commissioner, require any person who installs, places or sets merchandise to obtain any form of insurance, bond, or surety or make any form of pledge, deposit, or monetary guarantee as a condition of entry or access to cemetery property or the installation of merchandise thereon, other than as may be in accordance with such rules and regulations.

SECTION 3. Tennessee Code Annotated, Section 46-3-103(b)(3), is amended by deleting the first three sentences in their entirety.

SECTION 4. Tennessee Code Annotated, Title 46, Chapter 3, Part 1, is amended by adding the following language as a new, appropriately designated section:

46-3-115. A merchandise dealer, prior to installing merchandise in a cemetery and as often thereafter as required by the commissioner, shall register with the commissioner of commerce and insurance on a form and in a manner required by the commissioner. Such dealer shall furnish proof of liability insurance in a minimum amount of one million dollars (\$1,000,000) and a merchandise dealer's bond in the amount of twenty-five thousand dollars (\$25,000).

46-3-116. The commissioner of commerce and insurance is authorized to promulgate rules and regulations in accordance with the uniform administrative procedures act, title 4, chapter 5, to implement the provisions of this act.

SECTION 5. This act shall take effect July 1, 2002, the public welfare requiring it.